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ABSTRACT

A discussion of the political aspects of administrative decision-making concerns the sanctioning or prohibiting of corporal punishment in schools in general and the action taken when teachers who use corporal punishment come under attack. The data, derived from the author's participant observation in the Detroit Public Schools, indicate that (1) corporal punishment has been an accepted and practiced control mechanism in many schools; (2) most large school systems have a machinery for protecting teachers who may be jeopardized because they have administered physical punishment; and (3) parents filing civil suits have found that both teachers and administrators have liability insurance and are represented in court by attorneys for their professional organizations. Where corporal punishment is sanctioned, educators are shielded effectively even when overzealous, ill-advised, or sadistic. The removal of that shield, the primary target in any political effort to bar corporal punishment, is the concern of the remainder of the paper. (Author/MLF)

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TO PUNISH OR NOT TO PUNISH: THE ADMINISTRATOR'S DILEMMA

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This paper is devoted to an analysis of case illustrations which hopefully can throw light on the political aspects of administrative decision making with respect to the sanctioning or prohibiting of corporal punishment in schools in general and with action taken when teachers who use corporal punishment come under attack. Much of the data represent participant observation when the author was Associate Superintendent for Child Accounting and Adjustment in the Detroit Public Schools.

The problems of the administrator tend to revolve around three issues: (1) the development of policy, (2) implementation of that policy, and (3) stance toward violators of policy. Although in some schools, the top administrator is involved in giving corporal punishment officials above the principalship or headmastership rarely do so.

The issues surrounding corporal punishment are political because of the basic nature of the situation: the inflicting of pain as part of role behavior which is sanctioned by investing the inflictor with immunity from liability or retaliation. In essence corporal punishment is an assault. Regardless of whether or not verbal criticism or sarcasm may be psychologically more devastating, the fact is that speech is a protected freedom; assaults except where specifically sanctioned are prohibited.

It may help to give perspective to the issues and the debates if we recognize that historically the privilege of inflicting pain, at least in Western cultures, has been a highly prized and widely exercised privilege. Witnessing pain being inflicted has been and still is a feature of spectacles which are regarded as entertaining. Over the centuries since the Roman

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circuses, by a series of political actions, the privilege of inflicting pain without fear of reprisal has been progressively circumscribed. No longer may husbands with impunity beat their wives, naval officers flog seamen, and church wardens knock the noggins of slumbering worshippers. Even the right of parents to commit mayhem is invaded by legislation against child abuse. One of the few remaining areas where authority carries with it an option to use pain is within schools! Inevitably that situation is bound to be questioned.

Lest you think that the above discussion is overstated, it should be known that in most large school systems there is machinery for protecting teachers who may be jeopardized because they have administered physical punishment. Sooner or later in all large school systems some parents will feel that some teachers have gone too far in their use of corporal punishment and want to see sanctions applied against the offending teacher. Usually the building administrator is expected to placate the complainants. In larger school systems if they are not satisfied and want something drastic to be done, any appeal they may make to higher authority will be investigated. Often, and this has been the case in Detroit, the investigation is conducted by the attendance department, which in turn is expected to mollify the complainants. Privately, of course, there may be expressions of displeasure and the teacher may be clearly informed there should be no repetitions, but almost never will there be a suspension, much less a dismissal. If the parents remain adamant they may finally make their complaint to the police or the prosecuting attorney. At this point the political nature of protection becomes clearcut. In the larger cities, one or more

of the assistant prosecutors usually specializes in school cases, which mostly are those which involve enforcement of compulsory education laws, in which activity he works closely with the school system's attendance department. It is to this person that the parents will be referred. His modus operandi is not too dissimilar to that which many women rape victims have experienced: he sympathizes with the complainant but so emphasizes the problems and unpleasantness of prosecution that they are quite likely to drop the case.

Even though there have been instances of what could be characterized as brutality, in the past decade the Prosecutor's Office in Detroit has not issued a warrant against any teacher for acts against pupils or students. Knowing this parents have taken the route of filing civil suits for damages. When they do so they find that both teachers and administrators have liability insurance and in court will be represented by the attorneys for their professional organizations. In short, then, where corporal punishment is sanctioned, educators are shielded quite effectively even when overzealous, ill-advised, or sadistic. It is the removal of that shield which is the primary target in any political effort to bar corporal punishment, the issue which will be the concern of the remainder of this paper.

In the Detroit public schools, as has been true for most large systems, the issue of corporal punishment was and still is a highly emotionalized debate. Over the years the chief visible protagonists, as seems to be the tradition, have been the president of the teacher's union and spokesmen for the American Civil Liberties Union. The position taken follows a familiar pattern. The President of the Detroit Federation of Teachers while

deploring use of any form of violence in schools insisted that the Board of Education provide sufficient clinical and rehabilitative services so that teachers would not have any disruptive children in classes who could be controlled only by physical means. The spokesman for the A.C.L.U., a social worker (David Wineman) noted for his work with highly disturbed children, regarded corporal punishment as such to be dehumanizing.

In the later 1960's a number of episodes occurred which for a while promised to offer a resolution for what appeared to be an endlessly inconclusive conflict. The first episode was the transfer, for desegregation purposes, of a black teacher from an inner city school where corporal punishment was, if anything, encouraged to a school in an affluent neighborhood which happened to have in it a high concentration of psychiatrists and their families. They objected to her use of corporal punishment. She raised the question of discrimination. Both administrators and union officials suffered all sorts of cognitive dissonance in dealing with that problem and hoped it was not the forerunner of an epidemic.

A second episode, known only to a few leaders, had to do with a rapidly rising number of assaults against teachers. The union quite naturally wanted more protection for teachers. Their contract with the school administration required automatic suspension of any child who assaulted a teacher. This provision, although honored, was insufficient. Further to protect teachers, conversations were held with the judge of the Juvenile Court. He saw the danger to schools if teachers were intimidated and issued orders that any boy or girl accused of assaulting a teacher would be held in detention pending the hearing of the case. He attached a proviso; if the

teacher had made the initial physical move in the confrontation, he would weigh a defense based on self-protection.

The third episode involved a court case. A teacher of a class for socially maladjusted boys had installed what he considered a democratic system of discipline. He had jury trials of offenders in his room and let the class vote on the penalty. The boys prided themselves on being able "to dish it out and take it." On one occasion they voted to dispense twenty-five blows with a paddle. The parents took photographs of the bruises, and armed with these sued for damages. The teacher was exonerated due to a technicality; the photographs being in black and white rather than in color, their validity as evidence was successfully called into question. The Union officers and attorneys who had had to sit through the trial came to the conclusion that it was only a matter of time before they would lose a significant case.

At about the same time the Michigan Branch of the American Civil Liberties Unions, with federal funds, had established a project on the rights of children. It developed a position paper urging the Board of Education to definitively prohibit corporal punishment. They had hit upon a position which opened the door to a possible negotiation with the teachers' union. They made a distinction between corporal punishment and restraint; the latter which would be sanctioned permitted the use of physical force to prevent a child from injuring himself or other people. There obviously were problems of language to be worked out, but that is a familiar stage in the final phases of negotiation.

The A.C.L.U. having made its move by an official petition, the response

was the standard one of having the school administration create a committee to hear the petition and make recommendations. This would allow the needed opportunity not merely to examine arguments and work out "language," but of assessing the balance of forces. Adding to the propitiousness of the situation was the fact that both the attorney for the Board of Education and several members of the Board were active members of the American Civil Liberties Union, as had been the Superintendent. All indicated that they would be delighted if there could be a resolution of issues without a collision with the Union.

The hearing, itself, produced some surprizes. The principal question raised was whether or not, of all the issues confronting the school system, this was the most important. Implicit was a seeming issue of priorities. If there were such a thing as a hierarchy of harmful experiences suffered by children in a large school system in the 1960's (and 1970's) where did the pain inflicted by teachers stand in that hierarchy?

Subsequent private conversations revealed two aspects to the political issue which had previously been masked by the more newsworthy debate between the Union and the A.C.L.U. One of these was the role of athletics in the career lines of many school administrators, and especially those whose origins had been in underprivileged ethnic groups. In previous periods when discrimination had barred many from higher educational opportunity, those who were willing and able to be participants in the transactions in pain which are inherent to body contact sports had been able to obtain athletic scholarships. In cold fact, approximately seventy per cent of the school superintendents in Michigan are what, in the slang expression, are former

jocks. In their own lives the pain they had endured had not been such a bad thing.

In other cases, those who had been particularly active in the civil rights struggles had had to rely on many occasions on their own physical courage. One key member of the committee, in order to produce evidence of police brutality, had during a racially toned police dragnet operation sat in an unlighted car in an area through which police were sweeping; in fact, he had been able to use himself as bait. To him the day after day failure of schools to build self respect in children was much more devastating than any physical beating.

Despite the verbal hazing by which the A.C.L.U. delegation was greeted, the elements for a momentary compromise were at hand. The distinction between restraint and punishment being accepted, the Board declared itself as opposed to corporal punishment and ordered each school staff to work out a discipline policy.

This last move was obscured by the excitement of decentralizing the school system with the expectation of increasing community control. Regional boards of education were created. One of these banned corporal punishment; in that region principals, worried about community pressure, were no longer able to shield teachers from complaints. In the remainder of the city, while some schools also outlawed corporal punishment, others seized on the wording of the compromise to authorize its use. Meanwhile, the level of violence in Detroit, including its schools, continued to rise. Teachers, as represented by their union, pressed for unequivocal permission to be allowed corporal punishment once again. In one of the trade-offs to resolve

a strike, the school system's negotiators accepted such a clause. As of this date, any knowledgeable person could take you to schools in Detroit where corporal punishment is routine, or, in contrast, to other schools in similar neighborhoods where it is never used.

The present status is a wry commentary on what has gone before. The Board of Education, in preparation for the next round of negotiations, has ordered its negotiators to put on the bargaining table a clause barring corporal punishment. By an odd quirk of fate, its chief negotiator was President of the Michigan Branch of the American Civil Liberties Union when it took its initial stand on corporal punishment. The old antagonists are again in the spotlight. The political question now resolves into this: In the give and take of bargaining what that it values will the Board surrender to the Teachers' Union as a price for their agreement to abandon corporal punishment? What that it values will the Union surrender to the Board for the right to continue its use?

Guessing at outcomes of negotiations is hazardous. Meanwhile, community pressures on schools have gained potency by provisions under which principals are periodically evaluated by processes which include community input. Teachers who use corporal punishment cannot count on being shielded by principals who are loathe to antagonize parents. There are, of course, some community representatives who use corporal punishment in their own homes and applaud its use in schools. In an increasing number the de facto racial discrimination in its use rankles and they want their children treated exactly as are children in more affluent neighborhoods. The fact is that there are numerous inner city schools where children and teachers thrive without beatings, strappings or rappings.

At the present time this speaker is engaged in the education of teachers at Wayne State University. Our contribution to the long range solution is to place our students and student teachers only in schools where capable teachers day after day provide incentives for children to learn and who guide them quite satisfactorily without resort to paddles, straps or other instruments of pain. In the long run we expect that to do the trick.